

Robert J. Agresta
Vice President
Star Mountain, Inc. (A Provant Company)
703.960.7000

SUMMARY STATEMENT --- THE COMMERCIAL ACTIVITIES PANEL

There are many issues that the Panel will need to address during its deliberations and we are fairly certain they are all well known to the members. In the interest of sustaining focus, we would like to highlight at this juncture only one issue --- major loophole in the FAIR Act and the implementing policy guidance issued by OMB.

The issue relates to the annual commercial activities inventories and the language in the Act that calls for agency heads to review the activities on the list “...*within a reasonable period of time after the date on which a notice of public availability...is published.*” (Ref: Section 2(d), “Competition Required”). The subsequent OMB guidance, issued as a revision to the A-76 Supplemental Handbook of 1996, adopts the legislative language and chooses not to establish a specific standard of “reasonableness.” The result is that an agency is free to continually roll over activities on its inventory with a degree of indefiniteness that was likely not the intent of Congress. Moreover, the language in the Section calls on agency heads only to “...*review the activities on the list*” but does not call for a definitive decision on whether or not a competition will be conducted.

We suggest that the Panel include in its recommendations (1) a proposed revision in the legislative language that defines a “reasonable time standard” for an agency head’s sourcing decision or (2) direction to OMB that its policy guidance be changed to (a) more clearly define a “reasonable time standard” and
(b) offer greater specificity on the role of the agency head in the decision-making process.

We would be happy to present/discuss this matter at the June 11 public meeting. Star Mountain’s President/CEO, Frank P. Pugliese, Jr., and I look forward to attending.